

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JAIPUR BENCH JAIPUR

JUDGMENT

Jai Ram and others Vs. The State of Rajasthan

S.B. Criminal appeal No. 437/84
against the judgment and order
dated 20.9.1984 passed by Sh.
Mohd. Asgar Ali Khan, Sessions
Judge, Jaipur District, Jaipur in
Sessions Case No. 65/82.

Date of Order:

May 9th, 2006

PRESENT

HON'BLE MR. JUSTICE K.C.SHARMA

Mr. A.K. Gupta for the appellants
Mr. M.L. Goyal Public Prosecutor.

BY THE COURT:

This appeal by appellants arises out of the judgment and order dated 31.1.1985 passed by the learned Sessions Judge, Bundi, whereby the learned Judge has convicted the accused appellants for offence under Sections 148, 323/149 and 325/149. The maximum term of sentence passed against each of the appellants is six months.

At the very out set, it may be stated that in reply to the letter dated 23.1.2003 of Deputy Registrar (Judl.) issued in compliance of the order of this court dated 17.1.2003, the S.H.O., Police Station, Kalwad vide his letter dated 22.3.2003 has informed that

appellant Debu S/O Govinda Jat has died on 24.5.1995. Along with the letter, the SHO has also enclosed a copy of death certificate.

Since appellant Debu has died and none of his near relatives has applied to this court within 30 days of his death, for leave to continue the appeal as provided for by Section 394 Cr.P.C., the appeal against Debu S/O Govinda stands abated.

As regards remaining appellants, Mr. Gupta, learned counsel frankly conceded that he does not want to challenge the conviction of the appellants. However, Mr. Gupta, inter-alia, submitted that maximum term of sentence passed against the appellants is six months, the incident is an out come of some dispute regarding recovery of loan and that the appellants have been facing prosecution for last 25 years and therefore, it would be in the interest of justice that they should be extended the benefit of Section 4 of the Probation of Offenders Act.

I have considered the above argument. Since the learned counsel has not challenged the conviction of the appellants, I do not consider it necessary to enter into the merits of the case. However, suffice it to

observe that on perusal of the impugned judgment and the evidence on record it appears that the learned trial court has appreciated the evidence in true perspective while arriving at a conclusion of guilt and as such the learned counsel has rightly not challenged the conviction of the appellants.

Considering the submissions made above, in particular the fact that appellants have been facing prosecution for last 25 years and also considering the term of sentence awarded to them, I feel that ends of justice would be met if the benefit of Section 4 of the Probation of Offenders Act is extended to the appellants, for which Mr. Goyal, learned Public Prosecutor has no objection.

Resultantly, this appeal is allowed in part. The conviction of appellants Jai Ram, Nanda, Ghisa Lal, Sujya, Chhitar and Dola vide judgment and order impugned in this appeal is maintained. However, instead sentencing them at once to any punishment, I direct that appellants be released on their entering into a bond of Rs. 1000/- each to appear and receive sentence whenever called upon to do so during the period of one year and in the meantime to keep the peace and be of

good behaviour. The appellants are directed to furnish the bonds with a period of one month from today to the satisfaction of the trial court.

(Khem Chand Sharma), J.

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